

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

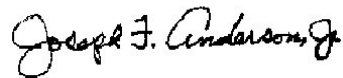
M and M Corporation of South Carolina,)	C.A. No.: 3:08-2585-JFA
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Auto-Owners Insurance Company,)	
)	
Defendant.)	
_____)	

Pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, Plaintiff M & M Corporation of South Carolina moves the court for partial summary judgment with respect to its first cause of action for breach of contract. Plaintiff owns a hotel in Blythewood, South Carolina. In August 2006, the South Carolina Department of Transportation was widening and improving Blythewood Road, a process that included installation of a new underground stormwater drainage system. Before installation was complete, approximately four inches of rain fell on Blythewood in one day. Plaintiff's hotel suffered significant water damage as a result of the rainwater exiting the incomplete drainage system, due to the expelled water that pooled in the hotel parking lot, reaching sufficient depth to enter the hotel building and causing damage to the property.

Plaintiff filed an action against Defendant Auto-Owners Insurance Company, seeking to recover for the water damage under the Policy. Defendant denied coverage, citing the surface water and flood exclusions contained in the Policy. The parties filed cross motions for summary judgment. Finding that the resolution of this dispute turned on the definitions of "surface water" and "flood" in the context of the Policy, this court certified three questions to the South Carolina Supreme Court. Recently, the Supreme Court answered the three certified questions in favor of Plaintiff, and now Plaintiff renews his motion for partial summary judgment.

The Supreme Court determined that the water at issue in this case was neither surface water nor flood water, *M & M Corp. v. Auto-Owners Ins. Co.*, ___ S.C. ___, 2010 S.C. LEXIS 326 (October 11, 2010); accordingly, Defendant breached its contract with Plaintiff when it denied benefits under the Policy based on the surface water and flood exclusion. Therefore, the court grants Plaintiff's motion for partial summary judgment as to its first cause of action.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

November 23, 2010
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge